

- (e) A producer-handler;
- (f) Any person who operates an other order plant described in § 1005.7 (d)(3) or (d)(4); and
- (g) Any person who operates an unregulated supply plant.

**§ 1005.10 Producer-handler.**

*Producer-handler* means any person:

- (a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;
- (b) Who receives no fluid milk products from sources other than his own farm production, pool plants and other order plants;
- (c) Whose receipts of fluid milk products from pool plants and other order plants do not exceed the lesser of 5 percent of Class I disposition or 5,000 pounds during the month;
- (d) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from his own farm production or pool plants; and
- (e) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

**§ 1005.11 [Reserved]**

**§ 1005.12 Producer.**

- (a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption, which milk is:
  - (1) Received at a pool plant directly from such person;
  - (2) Received by a handler described in § 1005.9(c); or
  - (3) Diverted from a pool plant in accordance with § 1005.13.
- (b) *Producer* shall not include:
  - (1) A producer-handler as described in any order (including this part) issued pursuant to the Act;
  - (2) A governmental agency operating a plant exempt pursuant to § 1005.8(e);
  - (3) Any person with respect to milk produced by such person which is di-

verted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1005.44(a)(8)(iii) and the corresponding step of § 1005.44(b); and

- (4) Any person with respect to milk produced by such person which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

**§ 1005.13 Producer milk.**

*Producer milk* means the skim milk and butterfat contained in milk of a producer that is:

- (a) Received at a pool plant directly from such producer by the operator of the plant, excluding such milk that is diverted from another pool plant;
- (b) Received by a handler described in § 1005.9(c);
- (c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant;
- (d) Diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler described in § 1005.9 (a) or (b) subject to the following conditions:
  - (1) A producer's milk shall be eligible for diversion to a nonpool plant during any month in which such producer's milk is physically received at a pool plant as follows:
    - (i) In any month of July through February, six days' production;
    - (ii) In any month of March through June, two days' production.
  - (2) During each of the months of July through November and January and February, the total quantity of milk diverted by a cooperative association shall not exceed one-fourth of the producer milk that such cooperative caused that month to be delivered to or diverted from such pool plants;
  - (3) A handler described in § 1005.9(a) that is not a cooperative association may divert for its account any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(2) of this section. The total quantity of milk so diverted shall not exceed one-fourth of the milk that is